

Regulations relating to Estate Agency Activities

Authorisation: Issued by the Ministry of Finance on 23 November 2007, pursuant to Section 1-4, Sub-section 1, Section 1-4, Sub-section 3, Section 2-1, Sub-section 3, Section 2-7, Sub-section 2, Section 2-8, Sub-section 5, Section 2-9, Sub-section 6, Section 3-1, Section 3-2, Section 4-2, Sub-section 4, Section 4-3, Sub-section 3, Section 4-4, Sub-section 3, Section 4-6, Section 5-1, Sub-section 3, Section 5-2, Sub-section 3, Section 6-2, Sub-section 4, Section 6-7, Sub-section 5, Section 6-10, Section 7-2, Sub-section 5, and Part II, Sub-section 3, of Act of 29 June 2007 No. 73 relating to Estate Agency Activities.

EEA references: Annex VII, No. 1, to the EEA Agreement (Directive 2005/36/EC, amended by Directive 2006/100/EC, Regulation (EC) No. 1430/2007, Regulation (EC) No. 755/2008, Regulation (EC) No. 279/2009), Regulation (EU) No. 213/2011) and Regulation (EU) No. 623/2012).

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Corrections: 1 November 2013 (under EEA references).

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Chapter 1. Certain forms of estate agency activities

Section 1-1. *Further provisions relating to housing associations*

(1) Section 5-1 and Section 5-3, Sub-section 4, of the Act relating to Estate Agency Activities (the Estate Agency Act) shall in no way curtail the scope of housing associations for engaging in activities governed by Act of 6 June 2003 No. 38 relating to Housing Associations (the Housing Association Act).

(2) Section 5-3, Sub-sections 1 to 3 and 5 to 7, of the Estate Agency Act (prohibition against own-account transactions) shall not apply to:

- a) any employees of housing associations who do not perform work that forms part of estate agency activities;
- b) any employees of housing associations upon the allotment of a new residential unit at a fixed price through seniority within the housing association.

Section 1-2. *Further provisions relating to estate agency activities concerning properties for commercial use*

The provisions of Section 4-4, Section 6-2, Section 6-4, Section 6-5, Section 6-7 to Section 6-10 and Chapter 7 and Section 8-8 of the Estate Agency Act may be derogated from as far as any assignment falling within the scope of Section 1-4, Sub-section 3, of the Estate Agency Act is concerned.

Section 1-3. *Further provisions relating to estate agency activities concerning the letting of properties*

(1) The rules on offer records in Section 3-5, on the disclosure obligation of the client with regard to the submission of offers in Section 6-2, third sentence, on the obligations of the agent upon the submission of offers in Section 6-3, on access to offer records in Section 6-4, as well as the provisions of Section 6-7, Sub-section 2, Nos. 3 to 6 and Nos. 9 to 13, of the Estate Agency Act may be derogated from as far as any assignment falling within the scope of Section 1-4, Sub-section 2, of the Estate Agency Act is concerned.

(2) Any statement as mentioned in Section 6-7, Sub-section 2, of the Estate Agency Act shall, as far as estate agency assignments concerning the letting of properties are concerned, also include information about:

- a) the size or number of rooms of the property to be leased;
- b) the rent amount and other payments pursuant to Section 3-1, cf. Section 3-4, of the Landlords and Tenants Act;
- c) the leasehold term and the scope of the parties for terminating the lease;
- d) the requirements of the landlord with regard to deposit or guarantee;
- e) terms and conditions with regard to the maintenance obligation of the tenant;
- f) whether the property to be leased is the residence of the landlord him- or herself, and whether this gives the tenant fewer rights than when leasing any other residential unit, cf. Section 11-4 of the Landlords and Tenants Act; and
- g) any right to sublet the property to be leased, or any parts thereof.

0 Added by Regulations of 24 February 2010 No. 238 (effective date 1 July 2010), amended by Regulations of 21 June 2013 No. 722 (effective date 1 January 2014, applicable to assignments concluded as from the said date).

Section 1-4. *Further provisions relating to estate agency activities abroad*

(1) The rules on the disclosure obligation of the client with regard to the submission of offers in Section 6-2, third sentence, on the obligations of the agent upon the submission of offers in Section 6-3, as well as on access to offer records in Section 6-4 may be derogated from as far as any assignment falling within the scope of Section 1-4, Sub-section 4, of the Estate Agency Act is concerned.

(2) Section 3-5 of the Estate Agency Act shall not prevent any agent from making use of any sub-contractor entitled to perform estate agency activities in the country in which the property is located. Section 6-4, Sub-section 2, of the Estate Agency Act shall apply correspondingly.

0 Added by Regulations of 24 February 2010 No. 238 (effective date 1 July 2010), amended by Regulations of 21 June 2013 No. 722 (effective date 1 January 2014, applicable to assignments concluded as from the said date).

Chapter 2. Requirements with regard to permits, etc.

Section 2-1. *The scope of legal assistance providers for engaging in estate agency activities*

(1) Estate agency activities in return for consideration, cf. Section 2-1 of the Estate Agency Act, may also be engaged in by an undertaking engaged in legal assistance activities, cf. Section 218, Sub-section 2, No. 1, of Act of 13 August 1915 No. 5 relating to the Courts of Justice (the Courts of Justice Act), provided that

- a) the legal assistance activities are organised as a sole proprietorship, cf. Section 219a, Sub-section 1, of the Courts of Justice Act; and
- b) the legal assistance provider has for three years been engaged in legal assistance activities pursuant to a permit from the Supervisory Council for Legal Practice, cf. Section 1-1 of Regulations of 20 December 1996 No. 1161 under the Courts of Justice Act (the Advocate Regulations).

(2) Provisions in the Estate Agency Act and in the present Regulations with regard to estate agency activities pursued by advocates, cf. Section 2-1, Sub-section 1, No. 2, of the Estate Agency Act, shall apply correspondingly.

Section 2-2. *Furnishing of guarantee*

(1) Guarantee in respect of an estate agency undertaking in Section 2-2 to Section 2-4 and an advocate engaging in estate agency activities, cf. Section 2-7 of the Estate Agency Act, referred to as the «undertaking», shall be furnished by depositing, with the Financial Supervisory Authority of Norway, a declaration from a non-life insurance company as mentioned in Act of 10 June 2005 No. 44 relating to Insurance Companies, Pension Providers and their Activities, etc. (the Insurance Act) or any other undertaking as mentioned in Section 1-4, Sub-section 1, Nos. 1 to 4, of Act of 10 June 1988 No. 40 relating to Financing Activities and Financial Institutions (the Financial Institutions Act).

(2) The guarantee amount shall be no less than NOK 30 million.

(3) The liability of the guarantor per transaction per injured party may be limited by agreement, but not to less than NOK 10 million.

(4) The Financial Supervisory Authority of Norway may in individual cases decide that the amount of the guarantee to be furnished shall be higher than that required under Sub-sections 2 and 3.

(5) If any payment from the guarantor results in the guarantee no longer meeting the requirements under Sub-sections 2 to 3, the undertaking shall ensure that the guarantee is restored to compliance with the requirements within one month. The Financial Supervisory Authority of Norway may stipulate a longer or shorter time limit in individual cases.

0 Amended by Regulations of 18 December 2009 No. 1726 (effective date 21 December 2009).

Section 2-3. *Further requirements with regard to the guarantee*

(1) Injured parties may claim payment directly from the guarantor without first having to make a claim against the undertaking.

(2) The guarantor shall not be entitled to invoke any other objections against injured parties than the objections the undertaking itself would be entitled to invoke against injured parties.

(3) The guarantor shall not be entitled to invoke against injured parties that payments have been made under the guarantee, unless the Financial Supervisory Authority of Norway has been notified of such payment no later than upon said payment being made.

(4) Termination of the guarantee or any other lapsing of the guarantee shall not take effect in relation to injured parties until three months after the Financial Supervisory Authority of Norway has received notification of such lapsing. If a new guarantee is furnished prior to the expiry of the said period, the lapsing of the guarantee shall take effect as from the date on which the new guarantee is furnished.

(5) The guarantee shall also cover reasonable costs incurred by third parties in connection with the completion of individual assignments, hereunder the safekeeping of documents that are subject to a storage obligation, cf. Section 3-7, in those cases where the right of the undertaking to engage in estate agency activities has been revoked pursuant to Section 8-2 and Section 8-3 of the Estate Agency Act.

Section 2-4. *Which guarantor is liable*

(1) The guarantor furnishing a guarantee for the undertaking at the time of an injured party making a claim for damages is liable in relation to such injured party. This shall apply irrespective of whether the loss was caused whilst the undertaking had a different guarantor.

(2) A claim for damages is deemed to have been made at the earlier of the following dates:

- a) The date on which the undertaking or its guarantor first received a written notification of the loss and a claim for damages.
- b) The date on which the undertaking or its guarantor first received a written notification from a guarantee beneficiary or an injured party concerning circumstances that may be expected to result in a claim for damages being made against the guarantee beneficiary.

(3) If the undertaking has no guarantor at the time of the claim being made, the last guarantor of the undertaking shall be liable.

(4) The guarantor of the undertaking at the time of the loss being caused shall also be liable in relation to injured parties, but may claim full recourse from the guarantor that is liable pursuant to Sub-section 1 or 3.

Section 2-5. *Information about the owners of the undertaking*

(1) Any application for a permit pursuant to Section 2-3 of the Act shall contain the following information:

- a) the name and enterprise registration number of the undertaking; and
- b) the names and social security/enterprise registration numbers of owners holding a significant stake in the undertaking, and the sizes of their ownership stakes.

(2) Where a significant stake in the undertaking is owned by a company, Sub-section 1, letter b), shall apply correspondingly to the company holding such stake, with all persons directly or indirectly owning 10 % or more of the undertaking being included in the list of owners.

(3) Any notification of the acquisition or increase of an ownership stake pursuant to Section 2-8, Sub-sections 2 and 3, of the Act shall contain information as mentioned in Sub-sections 1 and 2.

Section 2-6. *Information about the directors, the general manager and the head of technical estate agency matters of the undertaking*

(1) Any application for a permit pursuant to Section 2-3 of the Act shall contain the following information:

- a) the name and enterprise registration number of the undertaking;
- b) the names, social security numbers and appointment dates of all directors;
- c) the names, social security numbers and appointment dates of the head of

- technical estate agency matters of the undertaking and of any branches;
- d) the names, social security numbers and appointment dates of the general manager of the undertaking and of any branches.

(2) Sub-section 1 shall apply correspondingly to any notification of the replacement of any director, general manager or head of technical estate agency matters.

Section 2-6a. *Procedural rules supplementing the Services Act*

(1) The processing deadline as mentioned in Section 11, Sub-section 1, first sentence, of the Services Act with regard to applications for a permit pursuant to Section 2-3 of the Estate Agency Act shall be three months.

(2) The provision in Section 11, Sub-section 2, of the Services Act, to the effect that a permit is deemed to have been granted when the processing deadline has expired shall not apply to any application for a permit to engage in estate agency activities.

0 Added by Regulations of 18 December 2009 No. 1687 (effective date 28 December 2009).

Section 2-6b. *Further provisions with regard to legal structure*

(1) A permit to engage in estate agency activities pursuant to Section 2-4, Nos. 3 and 4, of the Estate Agency Act may only be granted to an undertaking having an approved auditor, cf. Section 2-1 of the Auditing and Auditors Act.

(2) As far as sole proprietorships are concerned, Section 3-3 of the Estate Agency Act shall apply correspondingly to the owner, who shall in addition meet the requirements applicable to a head of technical estate agency matters, cf. Section 2-9, Sub-section 2, of the Estate Agency Act.

(3) Any other undertakings under Section 2-4, Nos. 3 and 4, of the Estate Agency Act shall have a Board of Directors meeting the requirements in Section 6-1 of the Private Limited Companies Act, cf. Section 3-3 of the Estate Agency Act.

0 Added by Regulations of 18 December 2009 No. 1687 (effective date 28 December 2009).

Section 2-7. *Requirements with regard to the police certificate of good conduct*

Any police certificate of good conduct to be submitted pursuant to Section 2-9, Sub-section 3, Section 4-2, Sub-section 2, and Section 4-3, Sub-section 2, of the Estate Agency Act shall show registered information relating to criminal sanctions against violations of Chapters 15, 18, 22, 24 to 28 and 31 of the Penal Code, the estate agency legislation, the debt collection legislation, the competition legislation, the insolvency legislation, the accounting legislation, the company legislation, the tax legislation and the securities legislation.

Section 2-8. *Special provisions with regard to the head of technical estate agency matters*

(1) As far as technical estate agency performance is concerned, the head of technical estate agency matters, cf. Section 2-9, Sub-section 2, of the Estate Agency Act, shall ensure, based on an assessment of relevant risks, the establishment of adequate risk management and internal controls in accordance with guidelines laid down by the board of directors, cf. Regulations of 22 September 2008 No. 1080 relating to Risk Management and Internal Controls. The head of technical estate agency matters shall follow up any changes to the risks associated with the

undertaking, and ensure that the risks associated with the undertaking are adequately managed in accordance with the guidelines laid down by the board of directors. The head of technical estate agency matters shall provide the board of directors with relevant and timely information of relevance to the risk management and internal controls of the undertaking, hereunder information about new risks. The head of technical estate agency matters shall ensure that the risk management and internal controls are documented, implemented and monitored in a proper manner. Any deviations shall be reported to the board of directors of the undertaking.

(2) The head of technical estate agency matters shall ensure that the undertaking maintains a written overview of the education and practice, as well as the supplementary training, of all employees and persons with a corresponding affiliation who perform work that forms part of estate agency activities. The overview shall be evaluated and updated on an ongoing basis. The head of technical estate agency matters shall ensure that education, practice and supplementary training meet the requirements under statutes and regulations.

(3) The duties of the head of technical estate agency under Sub-section 2 shall apply correspondingly to the storage of documentation as mentioned in Section 4-11, Sub-section 2.

0 Amended by Regulations of 24 February 2010 No. 238 (effective date 1 July 2010).

Section 2-9. *Duty to report to the Financial Supervisory Authority of Norway*

(1) Any undertaking engaging in estate agency activities, cf. Section 2-1, Sub-section 1, No. 1, of the Estate Agency Act shall submit a biannual report to the Financial Supervisory Authority of Norway by 1 September (for the 1st half of the year) and 1 March (for the 2nd half of the year) each year.

(2) Any advocates engaging in estate agency activities, cf. Section 2-1, Sub-section 1, No. 2, of the Estate Agency Act, shall submit an annual report to the Financial Supervisory Authority of Norway by 1 March each year.

(3) The Financial Supervisory Authority of Norway may curtail the reporting duty in individual cases.

0 Amended by Regulations of 18 December 2009 No. 1726 (effective date 21 December 2009).

Section 2-10. *Discontinuance of estate agency activities*

Upon the discontinuance of estate agency activities, the undertaking shall give notice to the Financial Supervisory Authority of Norway to such effect. The notification shall specify who will be responsible for any documents that are subject to any storage obligation, cf. Section 3-7. The notice shall include a confirmation from the auditor to the effect that there are no client funds and that no client liability is recorded in the accounts. The first sentence shall apply correspondingly upon the closing down of a branch, cf. Section 2-2, Sub-section 1, of the Estate Agency Act.

0 Amended by Regulations of 18 December 2009 No. 1726 (effective date 21 December 2009), 24 February 2010 No. 238 (effective date 1 July 2010).

Section 2-11. *The performance of estate agency activities on a provisional basis*

(1) Estate agency activities in return for consideration may be carried out on a provisional basis in Norway by persons who are lawfully established in another EEA state with a view to engaging in such activities there, provided that he or she

- a) relocates to Norway in order to carry out estate agency activities, cf. EEA provisions corresponding to Article 5 of Directive 2005/36/EC (the Professional Qualifications Directive);
- b) furnishes a guarantee as mentioned in Section 2-7 of the Estate Agency Act; and
- c) provides notification and documentation, as specified in EEA provisions corresponding to Article 7, No. 1 and No. 2, letters a to d, of the Professional Qualifications Directive, to the Financial Supervisory Authority of Norway. The notification shall be renewed annually if the professional plans to carry out activities also in the coming year.

(2) Where the profession, or the education and training that leads to the profession, has not been subject to statutory regulation, the person shall have worked in the profession for no less than two years in the state of establishment during the last ten years.

(3) Sub-section 1, letter b), shall only apply if the person accepts assignments as mentioned in Chapter 6 of the Estate Agency Act on an independent basis without being employed by, or correspondingly affiliated with, an undertaking holding a permit, cf. Section 2-1, Sub-section 1, No. 1, of the Estate Agency Act or an advocate, cf. Section 2-1, Sub-section 1, No. 2, of the Estate Agency Act.

(4) The Financial Supervisory Authority of Norway may require the professional to document that he or she has the language skills necessary to work in the estate agency profession in Norway.

(5) The provisions of Chapter 3 and Chapters 5 to 8 of the Estate Agency Act, with the exception of Section 6-2, Sub-section 1, second sentence, thereof, shall apply correspondingly to activities governed by the present provision.

(6) A professional who carries out activities in Norway on a provisional basis pursuant to the present provision shall use the professional title from the EEA state in which he or she is established. Such title shall be used in the official language of the state of establishment in such a manner as to avoid confusion with the professional title in Norway. If no professional title exists in the state of establishment, the professional shall specify his or her formal qualifications in the official language of the state of establishment.

0 Added by Regulations of 30 September 2010 No. 1306.

Chapter 3. Specific requirements with regard to the activities

Section 3-1. *Record keeping*

Record keeping, cf. Section 3-1 of the Estate Agency Act, shall be organised in a satisfactory manner. Nothing entered in the records shall be rendered illegible through strikeouts or otherwise. If any corrections are made to records kept in an electronic format, the previously registered information shall be traceable, and a specification shall be obtainable that shows all the changes made.

Section 3-2. *Assignment record*

Each assignment that the estate agency undertaking accepts, cf. Section 6-1, Sub-section 1, of the Estate Agency Act, shall be registered in an assignment record as soon as possible. The assignments shall be recorded in chronological and numerical order. The record shall, at a minimum, comprise the following information:

- a) the date of conclusion of the assignment agreement;
- b) the name of the client;
- c) what the assignment pertains to;
- d) the address, registration number and municipality of the property;
- e) what type of right is sought transferred, cf. Section 1-2, Sub-section 2, of the Estate Agency Act;
- f) the duration of the assignment;
- g) the status of the assignment, hereunder termination, extension and implementation of the assignment; and
- h) the estate agent in charge, cf. Section 6-2 of the Estate Agency Act.

Section 3-3. *Transaction record*

(1) Each executed transaction shall be registered in a transaction record. The transactions shall be recorded in chronological and numerical order as soon as possible. The record shall, at a minimum, comprise the following information:

- a) the assignment number, cf. Section 3-2;
- b) the date on which the transaction was arranged, cf. Section 7-3, Sub-section 1, of the Estate Agency Act;
- c) the address, registration number and municipality of the property;
- d) what type of right is transferred, cf. Section 1-2, Sub-section 2, of the Estate Agency Act;
- e) the names of the parties to the agreement;
- f) the purchase price/annual rent amount; and
- g) the remuneration.

(2) Any assignment that pertains to settlement only shall be registered in the transaction record at the same time as it is registered in the assignment record.

(3) The name of the purchaser shall be registered in the record even if any rights of first refusal remain unresolved. If the right of first refusal is invoked, the name of the final purchaser shall also be registered in the record.

(4) A transaction record shall also be kept in respect of any transactions that the estate agency undertaking has arranged together with other estate agency undertakings. The remuneration column of the record shall register the total remuneration accrued as credit, and such portion of the remuneration as accrues to other estate agency undertakings as debit. To the extent that the reimbursement of documented disbursements is claimed pursuant to Section 7-5 of the Estate Agency Act, such disbursements shall not be recorded in the remuneration column. These amounts shall be recorded directly in the account books.

Section 3-4. *Record keeping for settlement undertakings*

Any assignments pertaining only to settlement for other estate agency undertakings pursuant to Section 3-5 of the Estate Agency Act shall only be registered in a separate assignment record for settlement undertakings. Each assignment received shall be registered in the record as soon as possible. The assignments shall be recorded in chronological and numerical order. The record shall, at a minimum, comprise the following information:

- a) the name and enterprise registration number of the estate agency undertaking that has submitted the assignment;
- b) the time of submission of the assignment;
- c) the address, registration number and municipality of the property;
- d) the names of the parties to the agreement;
- e) the agreed remuneration; and
- f) the person in charge of the assignment.

0 Amended by Regulations of 24 February 2010 No. 238 (effective date 1 July 2010).

Section 3-5. *Offer record*

Each offer received by the estate agency undertaking shall be registered in an offer record as soon as possible. The offers shall be organised under each individual assignment. The record shall, at a minimum, comprise the following information:

- a) the time of receipt of the offer;
- b) the name, address and/or telephone number of the offeror or the authorised representative;
- c) the amount of the offer;
- d) any reservations and the time, if applicable, when such reservations will be lifted;
- e) the acceptance deadline; and
- f) the time of rejection or acceptance.

Section 3-6. *Depository record*

(1) If the estate agency undertaking is in possession of title deeds, mortgage deeds, housing association unit certificates and similar on behalf of others, such documents shall be registered in a depository record. Any documents received for forwarding to a central settlement department or separate settlement undertaking shall be registered in the record. The record shall, at a minimum, comprise the following information:

- a) the date of receipt; and
- b) the date of release or forwarding of the documents.

(2) Documents as mentioned in Sub-section 1 shall be kept under lock and key in a fireproof manner.

Section 3-7. *Safekeeping*

- (1) The estate agency undertaking shall keep one original copy of any sale and purchase agreements. The transaction number shall be recorded on the contracts, cf. Section 3-3, and the contracts shall be kept together in numerical order.
- (2) The estate agency undertaking shall keep all documents received or prepared by the undertaking in connection with each individual assignment in such a manner as to enable these to be located when the address or registration number of the property or the name of one of the parties is known.
- (3) Contracts and documents shall be kept in hardcopy or other satisfactory manner for no less than 10 years. The same shall apply to records, cf. Section 3-2 to Section 3-6.

Section 3-8. *Client funds*

Client funds shall for purposes of the present Regulations mean all money paid, and all shares, bonds, mortgage deeds, promissory notes, title deeds, or similar, handed over to an estate agency undertaking for safekeeping

Section 3-9. *Safekeeping and handling of client funds*

- (1) Any estate agency undertaking shall keep entrusted funds (client funds) separate from own funds and other funds that do not belong to clients.
- (2) Funds that any person has paid to the estate agency undertaking (client funds) in connection with an assignment shall remain the property of such person until these have been used in accordance with what was agreed.

Section 3-10. *Client account*

- (1) Any client funds that shall not be paid out immediately shall be deposited in a client account with a financial institution entitled to offer such a service in Norway, which financial institution has committed in writing not to effect set off in the client account in respect of any claims the financial institution might have against the estate agency undertaking.
- (2) The client account shall be established in the name of the undertaking or in the name of the client.
- (3) Client funds shall be deposited at the highest possible interest rate, with the interest being credited to the clients in its entirety. Nevertheless, the undertaking shall not be required to include any interest amounts not exceeding one half of the standard court fee amount in respect of each individual client under the same assignment in the settlement specification.
- (4) The interest shall be paid to the client upon issuing the settlement specification in connection with the completion of the assignment, and the interest amount shall be specified in the settlement specification. Nevertheless, the client shall not be entitled to receive payment of such interest unless it has been credited to the client bank account.

Section 3-11. *Right of disposition in respect of client accounts*

(1) A right of disposition in respect of client accounts shall only be granted to the estate agency undertaking's head of technical estate agency matters or any person or undertaking to whom the head of technical estate agency matters grants written authorisation.

(2) The head of technical estate agency matters shall not enjoy any right of disposition in respect of the estate agency undertaking's client account if such head resigns or no longer meets the requirements needed to be the head of technical estate agency matters, or if the permit of the undertaking has lapsed or been revoked.

(3) When the head of technical estate agency matters no longer enjoys any right of disposition in respect of the client account, no person or undertaking granted a right of disposition by him or her shall enjoy such right of disposition either.

(4) The estate agency undertaking shall as soon as possible inform the financial institutions with which the undertaking has any client account that any right of disposition in respect of such accounts has been discontinued.

(5) The Financial Supervisory Authority of Norway may, in the circumstances mentioned in Sub-sections 2 and 3, block access to the client account or grant one or more persons a right of disposition in respect thereof.

0 Amended by Regulations of 18 December 2009 No. 1726 (effective date 21 December 2009).

Section 3-12. *Bookkeeping in respect of client liability and client funds*

(1) Separate accounts shall be established in respect of client liability and client funds, showing the handling of the client funds at all times.

(2) The bookkeeping shall show the client liability with regard to each individual assignment.

(3) The balance in the client account shall every month be reconciled against the book balance of client funds in the accounts. The funds deposited in the client account according to the accounts shall be reconciled against the overall client liability according to the accounts. Any discrepancies between the accounting figures shall be explained. Correspondingly, client liability in respect of the assignments the undertaking has as per month end shall be reconciled against book client liability (client debt) every month. Any discrepancies shall be explained. If the balance list, which shows client liability in respect of each individual assignment, features any negative balances, the reason therefore shall be explained.

(4) The reconciliations shall be documented, which documentation shall be stored as accounting materials.

0 Amended by Regulations of 24 February 2010 No. 238 (effective date 1 July 2010).

Section 3-13. *Settlement specification*

(1) The estate agency undertaking shall send the purchaser and the seller a settlement specification as soon as the settlement has been completed. The specification shall include all transactions relating to the relevant person. The time of each of the transactions shall be stated specifically in the settlement specification.

(2) The estate agency undertaking shall be obliged to send a settlement specification when subsequently requested by the purchaser or the seller. Correspondingly, the estate agency undertaking shall send an overview of the documents held in its possession on behalf of the relevant client (depository record).

Section 3-14. *Specific provisions concerning the handling of client funds by advocates in connection with estate agency activities*

(1) The provisions of the present Chapter shall apply correspondingly to advocates engaging in estate agency activities, cf. Section 2-1, Sub-section 1, No. 2, of the Estate Agency Act.

(2) Any client funds in connection with estate agency activities shall be deposited in a separate client account.

Chapter 4. Qualification requirements

Section 4-1. *Estate agent exam*

(1) As an approved estate agent exam, cf. Section 4-2, Sub-section 1, No. 2, of the Estate Agency Act, shall be classified a passed exam from an educational institution with a curriculum, entrance requirements and exam requirements approved by the Financial Supervisory Authority of Norway.

(2) The Financial Supervisory Authority of Norway may approve a foreign exam.

0 Amended by Regulations of 18 December 2009 No. 1726 (effective date 21 December 2009).

Section 4-2. *Further requirements with regard to the curriculum for the estate agent exam*

The curriculum shall encompass:

- a) the statutory provisions and regulations affecting a practitioner within the estate agency profession;
- b) estate agency activities in practice and the handling of documents; as well as
- c) accounting, finance and settlement upon the sale and purchase of rights over real property, hereunder the handling of client funds.

Section 4-3. *Further requirements with regard to the exam required to be granted a licence to practice as an estate agent*

(1) At least one written test shall be held in each subject, in addition to which shall be held an oral test. The oral test shall not be held until after the written tests have been held.

(2) The candidate shall achieve a pass grade in all subjects in order to pass the exam.

(3) The grades for each of the tests shall be specified in the diploma.

(4) A candidate may sit the same exam a maximum of three times.

(5) The Financial Supervisory Authority of Norway may in special cases grant exemptions from the provisions of Sub-sections 1 and 4.

Section 4-4. *Requirements as to practical experience*

(1) As approved practical experience, cf. Section 4-2, Sub-section 1, No. 3, and Section 4-3, Sub-section 1, No. 2, of the Estate Agency Act, shall be classified practice as a deputy estate agent with an estate agency undertaking. The same shall apply to practice as a deputy estate agent with an advocate engaged in estate agency activities on a sufficiently large scale. The scope of such work must extend to all aspects of ordinary estate agency activities pertaining to the sale and purchase of rights over real property in Norway.

(2) The Financial Supervisory Authority of Norway may, upon application, approve up to one year's practical experience from

- a) an undertaking or a branch that primarily handles settlement only;
- b) an undertaking or a branch that primarily arranges only leasehold contracts with regard to real property;
- c) an undertaking or a branch that primarily arranges only transactions with regard to properties located abroad; and
- d) estate agency activities abroad.

(3) If the practical experience under Sub-section 1 has not included settlement, the applicant shall have three months' practical experience from an undertaking or department/branch that handles settlement only, shall have completed 30 settlements, or shall have completed settlement training that has been pre-approved by the Financial Supervisory Authority of Norway.

(4) The Financial Supervisory Authority of Norway may approve, upon application, up to one year's practical experience from settlement activities completed prior to passing the exam.

0 Amended by Regulations of 18 December 2009 No. 1726 (effective date 21 December 2009).

Section 4-5. *Conditions for the issuance of a licence to practice as an estate agent to applicants holding professional qualifications from another EEA state*

(1) A licence to practice as an estate agent shall be issued to persons from other EEA states, provided that the relevant person:

- a) fulfils the conditions in Section 4-2, Sub-section 1, Nos. 1, 4 and 5, of the Estate Agency Act; and
- b) has evidence of formal qualifications as an estate agent from another EEA state as mentioned in EEA provisions corresponding to Article 13, No. 1, of Directive 2005/36/EC (the Professional Qualifications Directive); or
- c) has worked full time as an estate agent for no less than two years during the last ten years in an EEA state where the profession is not subject to statutory regulation, and meets the requirement as to the documentation of professional qualifications in Article 13, No. 2, of the Professional Qualifications Directive.

(2) If the education of the applicant is more than one year shorter than that required in and pursuant to Section 4-2, Sub-section 1, No. 2, of the Estate Agency Act, the Financial Supervisory Authority of Norway may require the applicant to document

professional experience in accordance with Article 14 of the Professional Qualifications Directive.

(3) The Financial Supervisory Authority of Norway shall require the applicant to take an aptitude test in accordance with Article 14 of the Professional Qualifications Directive if:

- a) the education of the applicant is substantially different from the requirements for obtaining a licence to practice as an estate agent laid down in and pursuant to Section 4-2, Sub-section 1, No. 2, of the Estate Agency Act; or
- b) estate agency activities in Norway encompass activities that are not considered estate agency activities in the other EEA state, and the difference lies in matters that are covered by the estate agent education in Norway, and are substantially different from those covered by the applicant's evidence of formal qualifications.

(4) The Financial Supervisory Authority of Norway shall only be entitled to require an aptitude test as mentioned in Sub-section 3 after the Financial Supervisory Authority of Norway has examined whether the professional experience of the applicant covers, in full or in part, the substantial educational difference.

(5) The Financial Supervisory Authority of Norway may require the applicant to document that he or she has the language skills necessary to work in the estate agency profession in Norway.

0 Amended by Regulations of 18 December 2009 No. 1726 (effective date 21 December 2009), 30 September 2010 No. 1306.

Section 4-6. *Conditions for the issuance of a licence to practice as an estate agent to applicants holding professional qualifications from states outside the EEA*

A licence to practice as an estate agent may be issued to an applicant entitled to engage in estate agency activities in a state with which Norway has concluded an agreement for the mutual approval of estate agents, provided that:

- a) he or she has passed an aptitude test or completed a probation period in accordance with Section 4-8 and Section 4-9; and
- b) he or she fulfils the conditions in Section 4-2, Sub-section 1, Nos. 1, 4 and 5, of the Estate Agency Act.

Section 4-7. *Aptitude test*

(1) An aptitude test pursuant to Section 4-6, letter a, shall be held to the extent that there are candidates, but not more than once a year. Anyone wishing to sit this test must give written notification to such effect to the Financial Supervisory Authority of Norway no later than 1 August of the same year.

(2) The aptitude test shall be held at an educational institution entitled to hold the estate agent exam, cf. Section 4-1, Sub-section 1. Section 4-2 and Section 4-3 of the Regulations shall apply to the extent suited.

(3) The Financial Supervisory Authority of Norway shall determine, based on the application, which subjects the relevant person shall be tested in.

(4) The Financial Supervisory Authority of Norway shall evaluate whether the relevant person has knowledge corresponding to the requirements imposed with regard to law, accounting, finance and settlement in the approved curriculum, and

shall determine, on the basis thereof, which subjects the student shall sit a written test in.

(5) The candidate shall, in addition to the written test, undergo an oral test to demonstrate that he or she has sufficient knowledge of key duties associated with estate agency activities. Such oral test may also include questions relating to document handling and practical estate agency work.

(6) All tests shall be graded either as a pass or as a fail. All tests shall be passed in order for the relevant person to have passed the aptitude test.

0 Amended by Regulations of 18 December 2009 No. 1726 (effective date 21 December 2009).

Section 4-8. *Probation period*

(1) The Financial Supervisory Authority of Norway shall approve, prior to the commencement of any probation period pursuant to Section 4-6, letter a, the practice workplace and a plan for the probation period. The probation period shall be three years, and shall provide the candidate with an understanding of all aspects of estate agency activities.

(2) As a practice workplace may be approved any undertaking holding a permit to engage in estate agency activities pursuant to Section 2-1, Sub-section 1, No. 1, of the Act. Any advocate holding a permit to engage in estate agency activities, cf. Section 2-1, Sub-section 1, No. 2, of the Act, and engaging in such activities on a sufficiently large scale, may also be approved as a practice workplace.

(3) The Financial Supervisory Authority of Norway may make approval of a practice workplace conditional upon such practice workplace completing no less than a specific number of transactions annually.

(4) The practice workplace shall submit a plan outlining, at a minimum, the following:

- a) The person holding professional responsibility for the follow-up of the candidate during the probation period, which person shall be an estate agent, cf. Section 4-2 of the Act, a lawyer holding a permit pursuant to Section 4-3 of the Act, or an advocate;
- b) a training plan showing which tasks one intends the candidate to participate in during the probation period. If any part of the estate agency activities, e.g. settlement, is not carried out on the premises of the undertaking, such fact shall be specifically explained.

(5) The practice plan shall document that the practice period will provide the practice candidate with an understanding of all aspects of the estate agency activities. The Financial Supervisory Authority of Norway may impose additional conditions with regard to the contents of the plan.

(6) After the probation period has been completed, the practice workplace shall confirm that the probation period has been completed in accordance with the approved plan for the probation period. A written confirmation may be requested from the Financial Supervisory Authority of Norway to the effect that the approved probation period has been completed.

0 Amended by Regulations of 18 December 2009 No. 1726 (effective date 21 December 2009).

Section 4-9. Assistant exam

(1) As an approved exam pursuant to Section 4-4, Sub-sections 1 and 2, of the Act shall be classified a passed exam from an educational institution or a trade association whose exam requirements and exam format have been approved by the Financial Supervisory Authority of Norway.

(2) The Financial Supervisory Authority of Norway may approve a foreign exam.

(3) A person who has not yet passed the exam may perform duties corresponding to those of an assistant, cf. Section 6-1, Sub-section 2, for up to six months until such exam has been passed.

0 Amended by Regulations of 18 December 2009 No. 1726 (effective date 21 December 2009), Regulations of 26 June 2012 No. 643 (effective date 1 July 2012).

Section 4-10. Supplementary training

(1) Any person holding a licence to practice as an estate agent, a licence to practise law or a permit pursuant to Section 4-3 of the Estate Agency Act or Section 5 of Regulations of 23 November 2007 No. 1282, and who is engaged in estate agency activities, shall be able to document 15 hours of supplementary training during the course of the last two calendar years.

(2) As relevant supplementary training shall be classified seminars within subjects as specified in Section 4-2, organised by approved educational institutions, cf. Section 4-1, Sub-section 1, or organisations representing either estate agency undertakings or persons as mentioned in Sub-section 1. Acting as speaker in a seminar as mentioned in the previous sentence shall be classified as relevant supplementary training on a par with attendance thereof.

(3) The Financial Supervisory Authority of Norway may approve, upon application from the organiser, other seminars as relevant training.

0 Added by Regulations of 24 February 2010 No. 238 (effective date 1 January 2011).

Section 4-11. Documentation of supplementary training

(1) Supplementary training shall be documented as from the third year after the commencement of the relevant person's involvement in estate agency activities.

(2) The documentation shall, at a minimum, include:

- a) the name of the organiser of the seminar;
- b) the subject matter;
- c) a brief description of the contents of the seminar; and
- d) the date and duration of the seminar.

(3) Copies of documentation mentioned in Sub-section 2 shall be submitted to the head of technical estate agency matters on an ongoing basis.

0 Added by Regulations of 24 February 2010 No. 238 (effective date 1 July 2010).

Chapter 5. Requirements as to independence

Section 5-1. *The scope of the undertaking for engaging in other business activities*

(1) Any undertakings and advocates engaging in estate agency activities, cf. Section 2-1 of the Estate Agency Act, may in addition engage in:

- a) business management for owners of apartment buildings and lettings management;
- b) valuation of real property in respect of which the undertaking has no transaction assignment;
- c) assistance with the implementation of the conversion of properties into individual units and the formation of housing cooperatives;
- d) acting as intermediary in respect of cleaning and removal services, as well as electricity products;
- e) acting as intermediary in respect of household contents insurance and home insurance; and
- f) activities mentioned in Section 1-2, Sub-section 2, No. 4, of the Estate Agency Act, when such sale and purchase does not primarily concern the transfer of any property or right as mentioned in Section 1-2, Nos. 1 to 3, of the Estate Agency Act, and the undertaking informs the parties in writing that such activities do not constitute estate agency activities and that the furnished guarantee, cf. Section 2-7 of the Estate Agency Act, is not applicable; and
- g) acting as intermediary in respect of credit when no permit is required under other legislation.

(2) Any undertakings and advocates engaging in estate agency activities, cf. Section 2-1 of the Estate Agency Act, shall not engage in:

- a) acting as intermediary in respect of change of ownership insurance against remuneration; or
- b) assistance that primarily involves advertising or other marketing of real property, or otherwise acting as the representative of only one party in connection with the sale and purchase of real property.

Section 5-2. *Special provisions with regard to acting as intermediary in respect of credit*

(1) Any undertakings and advocates engaging in estate agency activities, cf. Section 2-1 of the Estate Agency Act, and receiving any income or other benefits in connection with acting as intermediary in respect of credit, shall provide the seller and the purchaser with written information to such effect prior to a transaction being agreed.

(2) Any employees and persons having a corresponding affiliation with any estate agency undertaking shall not receive any income or other benefits in connection with acting as intermediary in respect of credit. The same shall apply to any employees and persons having a corresponding affiliation with any advocates engaging in estate agency activities.

(3) Any undertakings and advocates engaging in estate agency activities, cf. Section 2-1 of the Estate Agency Act, shall not pay any form of remuneration or provide any other benefits in connection with acting as intermediary in respect of credit, to any persons as mentioned in Sub-section 2.

Section 5-3. *Disclosure of rights over real property*

Any persons as mentioned in Section 5-2, Sub-section 1, of the Estate Agency Act, shall keep the undertaking or the advocate with which or whom they are affiliated informed of their rights over real property on an ongoing basis. Such rights also include units or shares of any company that is not listed on any stock exchange, provided that real property constitutes a material part of the assets of the relevant company.

Section 5-4. *Register of rights over real property*

(1) Any undertakings and advocates engaging in estate agency activities shall maintain a register of rights as mentioned in Section 5-3. The following information shall be recorded in the register:

- a) the type of right;
- b) the time of acquisition and, if applicable, disposal of such right;
- c) how such right was acquired or disposed of;
- d) the address, registration number and municipality of the property;
- e) the remuneration, if any; and
- f) upon the acquisition or disposal of units or shares; the name and enterprise registration number of the company.

(2) The information shall be recorded in the register as soon as possible. Nothing entered in the records shall be rendered illegible through strikeouts or otherwise.

(3) Procedures shall be established to ensure that the register is complete and up to date at all times.

Chapter 6. The assignment and the performance thereof

Section 6-1. *Further provisions with regard to the division of labour between the estate agent in charge and any assistants*

(1) Only the estate agent in charge, cf. Section 6-2, Sub-section 2, of the Estate Agency Act, may:

- a) conclude the assignment agreement, cf. Section 6-4 of the Estate Agency Act;
- b) inspect and examine the property;
- c) provide information and advice that may be of importance to the transaction and the implementation thereof;
- d) arrange for the submission and processing of offers; as well as
- e) hold the contract meeting.

- (2) Assistants, cf. Section 6-2, Sub-section 2, of the Estate Agency Act, may:
- a) obtain information for the property description and prepare a draft thereof;
 - b) prepare draft sales advertisements and other marketing;
 - c) conduct viewings;
 - d) prepare draft sale and purchase agreements;
 - e) draft and prepare documents for registration; and
 - f) prepare drafts of specific agreements, applications or other documents relating to the transaction with which the assignment is concerned, including documents pertaining to settlement.
- (3) The estate agent in charge shall, subject to the limitations implied by Sub-section 4, instruct, check and approve the work of any assistants, cf. Sub-section 2.
- (4) Assistants who have passed an exam pursuant to Section 4-4, Sub-section 2, of the Estate Agency Act (settlement assistant exam), may, in addition to the duties mentioned in Sub-section 2, execute settlement pursuant to Section 6-2, Sub-section 3, of the Estate Agency Act under the supervision of the estate agent in charge. When settlement is executed in a branch that performs settlement only, or by an estate agency undertaking that performs settlement only, the head of technical estate agency matters at the relevant branch or undertaking shall supervise the settlement assistant.
- (5) Other persons fulfilling the conditions for appointment as estate agent in charge may in special cases assume responsibility for an individual assignment, cf. Section 6-4, Sub-section 4, of the Estate Agency Act.

Amended by Regulations of 26 June 2012 No. 643 (effective date 1 July 2012).

Section 6-2. *Further provisions with regard to the duty of the agent to disclose*

Any specification as mentioned in Section 6-7, Sub-section 2, of the Estate Agency Act shall disclose the name, registered address and enterprise registration number of the agent. Information shall also be disclosed as to who is in charge of the assignment and what is agreed with regard to the right of the agent to claim reimbursement of disbursements. Furthermore, information shall be disclosed with regard to the process for the submission of offers, as well as the rights and obligations of the offeror.

0 Amended by Regulations of 24 February 2010 No. 238 (effective date 1 July 2010), Regulations of 21 June 2013 No. 722 (effective date 1 January 2014, applicable to assignments concluded as from the said date).

Section 6-3. *The duties of the agent upon the submission of offers*

- (1) The agent shall facilitate proper organisation of the submission and processing of offers, and shall adjust the speed of the sales effort to a level at which the client and relevant interested parties can be ensured a proper basis for choosing their actions. The agent shall encourage the client not to receive any offer directly from the offerors, but instead refer to the agent.
- (2) If an offer is submitted subject to a deadline that is obviously too short to enable the agent to handle it in accordance with the previous Sub-section, he or she shall discourage the offeror from stipulating such a deadline, and shall suggest that it may result in the client not accepting the offer. If the offeror chooses to uphold the short

deadline, the agent shall inform the client of the offer and of consequences of the deadline being too short. The agent shall inform, to the extent necessary and possible, the client, the offerors and other interested parties in writing about received offers, including the amount of such offers, any reservations, as well as the acceptance deadline, and shall facilitate an organisation of the submission and processing of offers that allows the said parties a reasonable period of reflection. The agent shall, as soon as possible, confirm in writing to offerors that their offers have been received. The agent shall also assist with the evaluation of offers.

(3) In consumer relationships, the agent shall not process any offer with a shorter acceptance deadline than 12:00 on the first working day after the last scheduled viewing. Saturday shall not be considered a working day.

(4) The agent shall only process offers, acceptances and rejections submitted in writing. The agent shall obtain valid proof of identity from, as well as the signature of, the offeror before processing any offer.

(5) By «in writing» in Sub-sections 2 and 4 is also meant electronic messages when the information therein is also accessible in retrospect. The estate agency undertaking shall keep such messages in accordance with the safekeeping provisions in Section 3-7.

0 Amended by Regulations of 24 February 2010 No. 238 (effective date 1 July 2010), Regulations of 21 June 2013 No. 722 (effective date 1 January 2014, applicable to assignments concluded as from the said date).

Section 6-4. Access to the offer record

(1) A copy of the offer record shall be given to the purchaser and the seller without undue delay after the transaction has been agreed. Any corrections made to the offer record, cf. Section 3-1, shall follow clearly from such copy.

(2) After a transaction has been agreed, or if the submission and processing of offers is closed without any transaction having been agreed, anyone who has submitted an offer for the property may request a copy of the offer record in an anonymous format.

Chapter 7. Remuneration. Disbursements

Section 7-1. The duty of the agent to give an offer based on an hourly rate

Offers based on an hourly rate shall, at a minimum, include the following information:

- a) the hourly rate, inclusive of value added tax;
- b) An estimate as to the number of hours that will be spent on:
 - 1. inspection, information gathering, sales preparations, drafting the property description and drafting/ordering advertisements;
 - 2. viewings;
 - 3. other contact with interested parties, and organising the submission and processing of offers;
 - 4. drafting the contract and holding the contract meeting; and
 - 5. implementation of the transaction, cf. Section 6-9, Sub-section 1, of the Estate Agency Act.
- c) the estimated total time to be used on performing the assignment;

- d) the overall remuneration based on the specified hourly rate and time to be used on performing the assignment; and
- e) individual and aggregate estimates as to the amount of the disbursements, cf. Section 6-4, Sub-section 1, No. 5, of the Estate Agency Act.

Section 7-2. *The duty of the agent to issue an invoice*

(1) The invoice, cf. Section 7-2, Sub-section 3, of the Estate Agency Act, shall specify the time the agent has used on:

- a) inspection, information gathering, sales preparations, drafting the property description and drafting/ordering advertisements;
- b) viewings;
- c) other contact with interested parties, and organising the submission and processing of offers;
- d) drafting the contract and holding the contract meeting; and
- e) implementation of the transaction, cf. Section 6-9, Sub-section 1, of the Estate Agency Act.

(2) In addition, the invoice shall include a specified overview of all disbursements, cf. Section 7-5 of the Estate Agency Act.

II

The effective date of the present Regulations shall be 1 January 2008, provided however that the effective date of the provisions in Section 5-3, Section 5-4, Section 7-1 and Section 7-2, Sub-section 1, shall be 1 March 2008. Regulations of 20 March 1990 No. 177 relating to Estate Agency Activities are repealed with effect from 1 January 2008.

The effective date of the provision in Section 2-2 of the present Regulations shall be 1 January 2009. Section 2-5 of Regulations of 20 March 1990 No. 177 relating to Estate Agency Activities shall apply correspondingly until then.

Any practical experience gained prior to the effective date of the Estate Agency Act, in accordance with Section 1-12, Sub-section 2, of Regulations of 20 March 1990 No. 177 relating to Estate Agency Activities shall be approved irrespective of Section 4-4 of the present Regulations.

The following amendments to other regulations shall take effect on 1 January 2008:
